



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed March 1, 2019


United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

CHRISTIAN THAI,

DEBTOR.

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Case No. 18-32394-hdh7

Hearing Date: February 28, 2019

Hearing Time: 10:00 A.M.

**ORDER GRANTING TRUSTEE'S AMENDED MOTION FOR
AUTHORITY TO SELL PROPERTY FREE AND CLEAR OF LIENS,
CLAIMS, AND ENCUMBRANCES AND NOTICE OF SOLICITATION OF
ADDITIONAL CASH BIDS: 712 TICONDEROGA DRIVE, GARLAND,
TEXAS, 735 BARUNA CIRCLE, GARLAND, TEXAS, AND
738 SCEPTRE CIRCLE, GARLAND, TEXAS**

Came on for consideration the **Trustee's Amended Motion for Authority to Sell
Property Free and Clear of Liens, Claims, and Encumbrances and Notice of Solicitation of
Additional Cash Bids: 712 Ticonderoga Drive, Garland, Texas, 735 Baruna Circle,
Garland, Texas, and 738 Sceptre Circle, Garland, Texas** [Docket No. 67] (the "Motion") filed
by James W. Cunningham, Trustee (the "Trustee"), on February 4, 2019. The Trustee appeared

**Order Granting Trustee's Amended Motion for Authority to Sell Property Free
and Clear of Liens, Claims, and Encumbrances and Notice of Solicitation of
Additional Cash Bids: 712 Ticonderoga Drive, Garland, Texas, 735 Baruna Circle,
Garland, Texas, and 738 Sceptre Circle, Garland, Texas**

through his counsel, Michael W. Sebesta.

The Court, having determined that proper notice pursuant to Bankruptcy Rule 6004(c) was given to all creditors, lien holders, and parties-in-interest; that this Court has jurisdiction of this Motion pursuant to 28 U.S.C. § 1334 and this is a core proceeding pursuant to 28 U.S.C. § 157; that no objections have been filed, and having considered the representations of counsel for the Trustee and/or the Trustee's announcement (a) regarding the process and outcome of the auction sale of the subject real estate, (b) that the successful high bidder, SCEPTRE 738, BARUNA 735, AND TICONDEROGA 712 LAND TRUST through its representative SIDNEY BELLAMY, has agreed to close the purchase of the Property (defined below), and (c) that the backup buyer, JACQUELINE NGUYEN (the "Backup Buyer"), has agreed to close the purchase of the Property in the event the successful high bidder fails to close, is of the opinion that the sale described in the Motion, but at the purchase price described below, represents the exercise of reasonable business judgment by the Trustee and should be approved. It is therefore,

ORDERED that the relief requested in the Motion is hereby granted pursuant to 11 U.S.C. § 363(b) and (f); it is further

ORDERED that the Trustee, be and hereby is, authorized to sell the estate's interest in three residential duplexes that are more particularly described, as follows (collectively, the "Property"):

(a) the tract of land more commonly known 712 Ticonderoga Drive, Garland, Texas located in Dallas County, Texas, being more fully described as:

Being Lot 6, in Block 7, of REVISED PLAT OF MEADOWCREEK VILLAGE, an Addition to the City of Garland, Dallas County, Texas, according to the Map thereof recorded in Volume 71158, Page 2377, of the Map Records of Dallas County, Texas;

together with all improvements thereon, if any, and all rights, privileges, tenements, hereditaments, rights-of-way, appendages and appurtenances, in anyway appertaining

thereto and all right, title, and interest of Seller in and to any streets, ways, alleys, strips or gores of land adjoining the above described property or any part thereof;

(b) the tract of land more commonly known as 735 Baruna Circle, Garland, Texas located in Dallas County, Texas, being more fully described as:

Being Lot 11, in Block 3, of Revised Plat of MEADOWCREEK VILLAGE, an Addition to the City of Garland, Dallas County, Texas, according to the Map thereof recorded in Volume 71158, Page 2377, of Map Records of Dallas County, Texas;

together with all improvements thereon, if any, and all rights, privileges, tenements, hereditaments, rights-of-way, appendages and appurtenances, in anyway appertaining thereto and all right, title, and interest of Seller in and to any streets, ways, alleys, strips or gores of land adjoining the above described property or any part thereof; and

(c) the tract of land more commonly known as 738 Sceptre Circle, Garland Texas located in Dallas County, Texas, being more fully described as:

Being Lot 5, in Block 9, of REVISED PLAT OF MEADOWCREEK VILLAGE, an Addition to the City of Garland, Dallas County, Texas, according to the Map thereof recorded in Volume 71158, Page 2377, of the Map Records of Dallas County, Texas;

together with all improvements thereon, if any, and all rights, privileges, tenements, hereditaments, rights-of-way, appendages and appurtenances, in anyway appertaining thereto and all right, title, and interest of Seller in and to any streets, ways, alleys, strips or gores of land adjoining the above described property or any part thereof;

to SCEPTRE 738, BARUNA 735, AND TICONDEROGA 712 LAND TRUST and/or its assigns (the "Buyer"), the successful high bidder at the Trustee's auction sale of the Property that occurred at the hearing on the Motion on February 28, 2019, upon the terms set forth in the Motion and the Contract attached thereto, but as a result of the Trustee's auction sale, for the price of \$245,000.00 cash (the "Purchase Price"); free and clear of any and all liens, claims and encumbrances, including, but not limited to:

(a) Notice of Lis Pendens styled JAMES W. CUNNINGHAM, Chapter 7 Trustee, as Plaintiff, versus CHRISTIAN THAI, as Defendant, filed 10/10/2018, recorded in cc# 201800271137, Real Property Records, Dallas County, Texas, under Cause No. 18-32394, District Court, Dallas County, Texas;

Notice of Lis Pendens styled JAMES W. CUNNINGHAM, Chapter 7 Trustee, as

Order Granting Trustee's Amended Motion for Authority to Sell Property Free and Clear of Liens, Claims, and Encumbrances and Notice of Solicitation of Additional Cash Bids: 712 Ticonderoga Drive, Garland, Texas, 735 Baruna Circle, Garland, Texas, and 738 Sceptre Circle, Garland, Texas

Plaintiff, versus CHRISTIAN THAI, as Defendant, filed 10/10/2018, recorded in cc# 201800271138, Real Property Records, Dallas County, Texas, under Cause No. 18-32394, District Court, Dallas County, Texas; and

Notice of Lis Pendens styled JAMES W. CUNNINGHAM, Chapter 7 Trustee, as Plaintiff, versus CHRISTIAN THAI, as Defendant, filed 10/10/2018, recorded in cc# 201800271139, Real Property Records, Dallas County, Texas, under Cause No. 18-32394, District Court, Dallas County, Texas (collectively, the “Lis Pendens”); and

- (b) Certain standby fees, taxes and assessments by any taxing authority for the years 2018 and 2019 (collectively, the “Property Tax Liens”) (But see following paragraphs concerning the year of closing taxes.); and
- (c) Any lien, claim, or encumbrance, if any, attributable to Meadow Creek Village Resident’s Association relating to the Property;

it is further;

ORDERED that from the proceeds of the sale the Trustee (and/or REPUBLIC TITLE OF TEXAS, INC., 5960 Berkshire Lane, Suite 100, Dallas, Texas, 75225, its agents, attorneys, and employees acting as escrow agent/officer to close the subject sale [collectively the “Escrow Officer”]) is/are authorized to:

- (a) pay usual and customary closing costs, including, but not limited to, the premium for the owner policy of title insurance for the insured amount equal to the Purchase Price, the Trustee’s half of the escrow fee, etc.;
- (b) pay the holder(s) thereof, as the case maybe, any amount necessary to satisfy the Property Tax Liens then due against the Properties along with a pro rata share of the then current year’s property taxes;
- (c) pay a real estate commission of 6% of the gross purchase price paid for the Properties to the Trustee’s Court-approved real estate agent, Michael Crane; and
- (d) pay to Trustee Insurance Agency from the proceeds of the sale, any amount necessary to satisfy the Insurance Premiums then due; it is further,

ORDERED that should the Buyer fail to close the sale of the Property pursuant to the terms set forth in the Motion and the Contract attached thereto (i) the Buyer shall forfeit its

earnest money in the amount of \$3,000.00 to the Trustee and (ii) the Backup Buyer shall purchase the Property for the price of \$240,000.00 pursuant to the terms set forth in the Motion and the Contract attached thereto. The Backup Buyer shall forfeit her earnest money in the amount of \$3,000.00 should she fail to close the sale of the Property pursuant to the terms of the Motion and the Contract attached thereto; it is further

ORDERED that if the Buyer timely closes the sale of the Property, then the Trustee shall return the Backup Buyer's earnest money in the amount of \$3,000.00 back to the Backup Buyer; it is further

ORDERED that the disbursements made from the funds constituting the Purchase Price shall be deemed the disbursement of money or turn over of money, whether paid by the Escrow Officer on behalf of the Trustee or by the Trustee directly, to parties in interest for the purposes of 11 U.S.C. § 326(a) of the Bankruptcy Code; it is further

ORDERED that, notwithstanding the foregoing paragraph, the year of closing (i.e. 2019) *ad valorem* tax lien shall be expressly retained on the Property until the payment by the Buyer of the year of closing taxes, plus any penalties or interest which may ultimately accrue thereon, in the ordinary course of business; it is further,

ORDERED that the sale of the Property shall be, and hereby is, free and clear of any liens, claims or encumbrances, with the validity, amount and priority of such lien, claim or encumbrance to be determined by this Court at a later date and to attach to the proceeds of the sale; it is further,

ORDERED that the stay provisions of Bankruptcy Rule 6004(h) **shall not** apply to this order and the closing may occur without a 14-day waiting period; and it is further,

ORDERED that the Trustee, the Buyer and the Escrow Officer are hereby

AUTHORIZED and DIRECTED to take all other reasonable and necessary actions to consummate the sale and transfer of the Property from the estate to the Buyer, including the execution of all other reasonable and necessary documents and instruments of amendment, revision, assignment, transfer and sale that are appropriate to implement and consummate the sale of the Property to the Buyer pursuant to this Order and the intent of the Motion, including extensions of the closing date deemed reasonable by the Trustee.

END OF ORDER